

REMARKS

Claims 1-2 and 4-7 are pending and under consideration in the above-identified application. Claim 3 was previously cancelled.

In the Final Office Action dated June 2, 2009, the Examiner rejected claims 1-2 and 4-7.

With this Amendment, claims 1 and 5 were amended. No new matter has been introduced as a result of the amendments.

I. 35 U.S.C. § 103 Obviousness Rejection of Claims

Claims 1 -2 and 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Oesten et al. (US 2001/0046628 A1) in view of Spitler et al. (US 2004/0197657). Applicants respectfully traverse this rejection.

Claims 1 and 5 require a coating layer that is adhered to the outer surface of an inner particle. The inner particle includes $\text{LiNi}_{0.70}\text{Mn}_{0.30}\text{O}_2$ and $\text{LiNi}_{0.70}\text{Co}_{0.30}\text{O}_2$ and is capable of doping and undoping lithium. The coating layer is a homogeneous lithium-titanium compound that has a single phase of polycrystalline spinel. Specification, pages 4-5. This coating significantly improves the high temperature property of lithium nickel oxide without decreasing lithium ion conductivity. Specification, pages 6, 33-34 & Table 1.

Oesten et al. teaches a lithium mixed oxide particle coated with a mixtures of alkali metals and metal oxides. Oesten et al., paragraph [0033-0034], [0037]. However, Oesten et al. fails to teach or even fairly suggest that the inner particle includes $\text{LiNi}_{0.70}\text{Mn}_{0.30}\text{O}_2$ and $\text{LiNi}_{0.70}\text{Co}_{0.30}\text{O}_2$ and is capable of doping and undoping lithium as required by the claims.

Spitler et al. teaches the use of lithium titanium spinel oxide as the positive material for the cathode of a lithium ion battery. Spitler et al., paragraphs [0017]; [0022]. Like Oesten et al., Spitler et al. also fails to teach or even fairly suggest an inner particle that includes

$\text{LiNi}_{0.70}\text{Mn}_{0.30}\text{O}_2$ and $\text{LiNi}_{0.70}\text{Co}_{0.30}\text{O}_2$ and is capable of doping and undoping lithium as required by the claims.

Additionally, Applicant maintains that the combination Oesten et al. and Spitzer et al. is improper. The Examiner suggests that the motivation to use lithium titanate as a coating is suggested by Spitzer et al. Office Action, page 8. However, Spitzer et al. merely teaches the use of teaches the use of lithium titanium spinel oxide as the positive material, and does not teach or even fairly suggest that lithium titanate could be used as a coating material.

To establish obviousness of a claim, the prior art must disclose or suggest each element of the claim; there must be some reason that would have prompted one of ordinary skill in the art to combine the elements and/or modify a reference(s) so as to reach the requirements of the claim; and there must have been a reasonable expectation of success of the combination and/or modification. MPEP § 2143; *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ___, Slip Op No. 04-1350, 119 Fed. Appx. 282 (April 30, 2007). Here, Spitzer et al. merely teaches the use of lithium titanate as a positive material, not a coating as required by the claims.

Thus, taken singularly or in combination with each other, the above cited references fail to either teach or even fairly suggest the required elements of independent claims 1 and 5. As such, claims 1 and 5 are patentable over the cited references, as are dependent claims 2, 3 and 4 for at least the same reasons. Accordingly, Applicant respectfully requests the above rejections be withdrawn. Additionally, Applicant requests that the rejection of dependent claim 4, which is based in part on Oesten et al. and Spitzer et al. be withdrawn for at least the same reasons.

II. Conclusion

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

Dated: July 28, 2009 By: /Anne K. Wasilchuk/
Anne K. Wasilchuk
Registration No. 59,592
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, Illinois 60606-1080
(312) 876-8000